

## STATE OF KANSAS

### BEFORE THE KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT

In the Matter of the

Proposed Adoption of Permanent Kansas Air Quality Regulations

K.A.R. 28-19-712 through K.A.R. 28-19-712d; and

K.A.R. 28-19-713 through K.A.R. 28-19-713d.

### REPORT OF THE HEARING OFFICER

This matter comes before Jennifer Nichols, hearing officer appointed by the Secretary of the Kansas Department of Health and Environment (KDHE) to consider the comments of the public regarding the proposed adoption of permanent administrative regulations.

### INTRODUCTION

Pursuant to K.S.A. 2009 Supp. 77-421, notice of the public comment period and public hearing was published in the Kansas Register on September 24, 2009, as well as in the *Kansas City Star* on September 24, 2009, and *Johnson County Sun* on September 30, 2009. A copy of the public notices are included in this report as Attachment 1. The public hearing was conducted 3 p.m. in the 3<sup>rd</sup> Floor Auditorium of the Wyandotte County Health Department, 619 Ann Ave, in Kansas City, Kansas.

These regulations are promulgated under the authority of K.S.A. 2009 Supp. 65-3005. The purpose of the hearing is to present the proposed regulations. The regulations are in response to a violation of the eight-hour ozone standard in Kansas City that occurred on August 9, 2007.

The 2007 Kansas City Eight-Hour Ozone Maintenance Plan contains contingency measures that are triggered upon a violation of the eight hour ozone standard. These contingency measures include a heavy-duty diesel truck idle reduction regulation and a nitrogen oxides reduction regulation for Johnson and Wyandotte counties. Specifically, the Kansas Department of Health and Environment is proposing K.A.R. 28-19-712 through K.A.R. 28-19-712d, regarding idle reduction of heavy-duty diesel vehicles; and K.A.R. 28-19-713 through K.A.R. 28-19-713d regarding the reduction of nitrogen oxides (NOx) emissions.

These regulations are being proposed to meet the national ambient air quality maintenance requirements of the federal Clean Air Act (CAA) for ozone.

The following were in attendance from KDHE:

Jennifer Nichols, Bureau of Environmental Field Services, serving as hearing officer

Tom Gross, Bureau of Air

Miles Stotts, Bureau of Air

Keith Weber, Bureau of Air

Attachment 2 is the sign in sheet utilized at the hearing for individuals to register.

The Hearing Officer noted that the comment period would close at 5:00 PM on Thursday, December 3, 2009. The address for the submission of comments was provided.

#### SUMMARY OF THE RECORD

The hearing officer opened the hearing with introductory remarks and called upon Bureau of Air staff member, Miles Stotts, to briefly review and discuss the proposed regulations. A copy of his testimony is attached to this report as Attachment 3. Following these remarks the hearing officer invited public comment.

A total of ten (10) people outside of KDHE attended the hearing. Four (4) people presented oral and written testimony during the hearing. EPA provided an original signed copy of their comments. During the public hearing the following comments were received:

K.A.R. 28-19-712 through K.A.R. 28-19-712d

- The comments were supportive of the proposed rules and their consistency with EPA Model State Idling Law and the changes implemented by Missouri.
- The proposed rule is supported by Johnson County Environmental Department. The department did ask for strengthening of the rule in three areas. These were increased resources for education, outreach and enforcement within the county; phase-out for the exemption for idling during government mandated rest periods; and addressing design and operation of load/unload locations to reduce idling.
- The Kansas Motors Carriers Association spoke in general support and offered two areas for proposed change. The rules should address all mobile diesel equipment including

agricultural trucks, construction equipment and locomotives. The rules should reward those operators of heavy duty diesel vehicles that have implemented new technology to reduce nitrogen oxides and particulate matter.

K.A.R. 28-19-713 through K.A.R. 28-19-713d

- One comment indicated that as part of the Clean Air Action Plan, the Kansas City Power and Light had voluntarily implemented technology for NO<sub>x</sub> reduction. This rule will improve the reduction by covering additional power generating and manufacturing facilities in the region.
- The proposed rule is supported by Johnson County Environmental Department to address the region's ozone standard violation. One facility within Johnson County will be affected; this is the AGC Flat Glass Plant.

During the 60-day comment period, five (5) written comments were received:

1. A letter was submitted by Raney Gilliland, Assistant Director, Kansas Legislative Research Department, on behalf of the Joint Committee on Administrative Rules and Regulations.
2. A letter was submitted by Joshua A. Tapp, Branch Chief, Air Planning and Development Branch, Air and Waste Management Division, United States Environmental Protection Agency.
3. A letter was submitted by Donna L. Whiteman, Assistance Executive Director/Attorney, Kansas Association of School Boards.
4. A letter was submitted by Bruce S. Andersen, Director, Public Health Department, Unified Government, Wyandotte County.
5. A letter was submitted by Darrell D. Dorsey, Manager Electric Production and Supply, Kansas City Board of Public Utilities.

Copies of the written comments from the hearing and the comment letters are included in this report as Attachment 4. No other comments were received during the public comment period.

### POST-HEARING ACTIVITIES

Following the close of the public comment period, all comments received were considered and where appropriate, additional changes in the draft regulations were proposed. The agency's response to the public comments, including the additional regulation changes proposed in response to the comment, is detailed in the agency's responsiveness summary, which is included in this report as Attachment 5.

### RECOMMENDATIONS

On the basis of the administrative record developed in this matter, the hearing officer finds and concludes that agency staff has met the public participation requirements for adopting the proposed new regulations.

### FINDINGS OF FACT


1. K.S.A. 2009 Supp. 65-3005 authorizes the Secretary of the Kansas Department of Health and Environment to adopt and amend administrative rules and regulations related to the implementation of the Kansas air quality act.
2. Pursuant to this authority, the Secretary promulgated the K.A.R. 28-19-712 through K.A.R. 28-19-712d, regarding idle reduction of heavy-duty diesel vehicles; and K.A.R. 28-19-713 through K.A.R. 28-19-713d regarding the reduction of nitrogen oxides (NOx) emissions regulations at issue, made a statement of the economic impact environmental benefit and economic impact of the proposed regulations and published notice of the public comment period and hearing in the Kansas Register on September 24, 2009.
3. The public comment period that was established for receiving comments on the proposed adoption of the new regulations was concluded at 5:00 p.m. on December 3, 2009 and the public hearing was held at 3:00 p.m. on December 3, 2009.

4. Comments related to the proposed adoption of the regulations were received and all comments have been fully considered. The agency has prepared a responsiveness summary in response to the comments regarding the proposed regulations.

### **CONCLUSIONS**

The hearing officer concludes that the Secretary of the Kansas Department of Health and Environment has the authority to promulgate the regulation(s) under K.S.A. 2009 Supp. 65-3005 and has met the requirements established under K.S.A. 2009 Supp. 77-415 *et seq.* for adopting regulations and filing these regulations with the Kansas Secretary of State.

Dated this 14th day of June 2010.

  
\_\_\_\_\_  
Jennifer R. Nichols  
Hearing Officer

Attachments:

- Attachment 1 – copy of public notice
- Attachment 2 – sign-in sheet from hearing
- Attachment 3 – BOA testimony
- Attachment 4 – public comments
- Attachment 5 – responsiveness summary



December 3, 2009 Hearing      Proposed K.A.R. 28-19-712 -712d; and K.A.R. 28-19-713 -713d.

**Attachment 1 – copy of public notice**

## State of Kansas

Department of Health  
and EnvironmentNotice of Hearing on Proposed  
Administrative Regulations

The Kansas Department of Health and Environment, Bureau of Public Health Informatics, will conduct a public hearing at 10 a.m. Wednesday, December 9, in the Pioneer Room (Room 110), Curtis State Office Building, 1000 S.W. Jackson, Topeka, to consider the adoption of proposed vital statistics regulations K.A.R. 28-17-6 and 28-17-12 concerning vital records fees.

A summary of the proposed regulations and estimated economic impact follows:

**Summary of Regulations:**

**28-17-6.** Specifies fees for copies, abstracts, and searches of birth, death, stillbirth, marriage and divorce records.

**28-17-12.** Specifies the filing fee for a delayed certificate of birth.

**Economic Impact:**

Cost to the agency: There is no additional cost to the agency. Any costs will be absorbed in the current budget.

Cost to the public: K.A.R. 28-17-6. Individuals requiring a birth, death, marriage or divorce certificate will be affected by this fee increase. Current fees for birth, marriage and divorce certificates are \$12 for the first copy and \$7 for the second copy. Fees for death certificates are \$13 for the first copy and \$8 for the second copy. Kansas purchase approximately 380,000 certificates per year.

K.A.R. 28-17-12. Individuals seeking to file a delayed certificate of birth will experience an increase in the payment for filing.

Costs to other governmental agencies or units: Other agencies may be affected by fee increases unless a Memorandum of Understanding is in place.

The time period between publication of this notice and the scheduled hearing serves as the required public comment period of at least 60 days for the purpose of receiving written public comments on the proposed regulations. At any time during the public comment period, any interested parties may submit written comments to Elizabeth W. Saadi, Ph.D., Interim Director, BPHI and Acting State Registrar, Kansas Department of Health and Environment, 1000 S.W. Jackson, Suite 110, Topeka, 66612. Written comments also may be submitted by e-mail to [lsaadi@kdheks.gov](mailto:lsaadi@kdheks.gov) or by fax to (785) 296-8869. All interested parties intending to provide oral comments on the proposed regulations will be given a reasonable opportunity to present their views during the hearing. In order to give each individual or entity an opportunity to present their view, it may be necessary for the hearing officer to request that each presenter limit any of their presentation to an appropriate timeframe.

Complete copies of the proposed regulations and the corresponding economic impact statement may be obtained on the Bureau of Public Health Informatics Web site at [www.kdheks.gov/ches/](http://www.kdheks.gov/ches/) or by contacting Elizabeth W. Saadi at the contact information above or by calling (785) 296-1415.

Any individual with a disability may request accommodation in order to participate in the public hearing and may request the proposed regulations and economic impact statement in an accessible format. Requests for accommodation should be made at least five working days in advance of the hearing by contacting Elizabeth W. Saadi.

Roderick L. Bremby  
Secretary of Health  
and Environment

Doc. No. 037539

## State of Kansas

Department of Health  
and EnvironmentNotice of Hearing on Proposed  
Administrative Regulations

The Kansas Department of Health and Environment, Division of Environment, Bureau of Air, will conduct a public hearing at 3 p.m. Thursday, December 3, at the Wyandotte County Health Department, 619 Ann Ave., third floor auditorium, Kansas City, Kansas. Two sets of proposed new air quality administrative regulations will be considered: K.A.R. 28-19-712 through K.A.R. 28-19-712d, regarding idle reduction of heavy-duty diesel vehicles; and K.A.R. 28-19-713 through K.A.R. 28-19-713d, regarding the reduction of nitrogen oxides (NOx) emissions. Both sets of regulations are being proposed in order to reduce air pollution emissions for ozone precursors from mobile and stationary sources in the Kansas portion of the Kansas City Maintenance Area (KCMA) for ozone. Both sets of proposed regulations apply only to Wyandotte and Johnson counties.

The new regulations are in response to a violation of the eight-hour ozone standard in Kansas City that occurred August 9, 2007. The 2007 Kansas City Eight-Hour Ozone Maintenance Plan contains contingency measures that are triggered upon a violation of the eight-hour ozone standard. These contingency measures include a heavy-duty diesel truck idle reduction regulation and a nitrogen oxides reduction regulation for Johnson and Wyandotte counties.

The proposed idle reduction regulations impose no new capital or annual costs to KDHE or other regulatory agencies. The owners and operators of regulated diesel vehicles will save money by conserving fuel that would otherwise be wasted during idling, as well as reduce truck maintenance costs due to the prevention of engine wear caused by idling. However, the proposed regulations require the owner of a load or unload location to limit engine idle time. As such, the owner of the load or unload location may need to provide electrical hookups for truck drivers, or an area for truck drivers to remain while their truck is waiting to load or unload, especially if a truck is not equipped with idle reduction technology. Costs for onboard idle reduction technologies vary, with the greatest expense incurred by installing an auxiliary power unit (APU). The cost of an APU is less than \$10,000.

The proposed nitrogen oxides reduction regulations impose no new capital or annual costs to KDHE or other

(continued)



regulatory agencies. However, two power generating facilities and one flat glass manufacturing facility will need to add controls to meet the emission limitations specified in the regulations.

Both power-generating facilities are owned by the Kansas City Board of Public Utilities (BPU). The first impacted BPU facility is Nearman Creek Power Station, located in northeastern Wyandotte County. The necessary control technology has an estimated cost effectiveness of \$750 per ton of NOx reduced. The second impacted BPU facility is Quindaro Power Station, located in northeastern Wyandotte County. The necessary control technology has an estimated cost effectiveness of \$868 per ton of NOx reduced. After the proposed regulations are implemented, the combined NOx emissions from these two BPU sources will be reduced by an estimated 2,948 tons per year.

The flat glass manufacturing facility is AGC Flat Glass North America, located near Spring Hill in southern Johnson County. Different control technologies at varying costs are available to AGC Flat Glass, with the decision of which emission controls to purchase at the discretion of AGC. The control technologies have a range of estimated cost effectiveness between \$1,014 and \$2,754 per ton of NOx reduced. After the proposed regulations are implemented, NOx emissions will be reduced between an estimated 292 and 487 tons per year, depending on the control technology implemented.

Upon adoption of the proposed new regulations, KDHE will submit a revised State Implementation Plan to the Environmental Protection Agency for approval.

The time period between the publication of this notice and the scheduled hearing constitutes a 60-day public comment period for the purpose of receiving written public comments on the proposed regulatory action. All interested parties may submit written comments prior to 5 p.m. on the day of the hearing to Keith Weber, Kansas Department of Health and Environment, Bureau of Air, 1000 S.W. Jackson, Suite 310, Topeka, 66612, by fax to (785) 296-1545, or by e-mail to [kweber@kdheks.gov](mailto:kweber@kdheks.gov). All interested parties will be given a reasonable opportunity to present their views orally on the proposed regulatory action during the hearing. In order to give all parties an opportunity to present their views, it may be necessary to require each participant to limit any oral presentation to five minutes.

Copies of the proposed regulations, complete economic impact statement and complete environmental benefit statement may be obtained by contacting Keith Weber at the contact information above or by calling (785) 291-3278. Copies also may be viewed at the following locations:

- Department of Air Quality, Unified Government of Wyandotte County - Kansas City, Kansas Health Department, 619 Ann Ave, Kansas City, Kansas
- Johnson County Environmental Department, 11811 S. Sunset, Suite 2700, Olathe
- KDHE Northeast District Office, 800 W. 24th St., Lawrence
- Curtis State Office Building, 1000 S.W. Jackson, Suite 310, Topeka

The material also is available on the Bureau of Air's Web site at [http://www.kdheks.gov/bar/public\\_notice.html](http://www.kdheks.gov/bar/public_notice.html). Questions pertaining to these proposed regulations should be directed to Keith Weber.

Any individual with a disability may request accommodation in order to participate in the public hearing and may request the proposed regulations and the economic impact and environmental benefit statements in an accessible format. Requests for accommodation should be made at least five working days in advance of the hearing by contacting Keith Weber at (785) 291-3278 or TTY (800) 766-3777.

Roderick L. Bremby  
Secretary of Health  
and Environment

Doc. No. 037540

## State of Kansas

### Department of Health and Environment

#### Notice of Hearing on Proposed Administrative Regulations

The Kansas Department of Health and Environment, Division of Health, Bureau of Environmental Health, will conduct a public hearing at 10 a.m. Thursday, December 3, in Room 530 of the Curtis State Office Building, 1000 S.W. Jackson, Topeka, to consider the adoption of proposed new regulations K.A.R. 28-72-1a, 28-72-1c, 28-72-1d, 28-72-1e, 28-72-1g, 28-72-1h, 28-72-1i, 28-72-1k, 28-72-1l, 28-72-1m, 28-72-1n, 28-72-1o, 28-72-1p, 28-72-1r, 28-72-1s, 28-72-1t, 28-72-1v, 28-72-1x, 28-72-6a, 28-72-7a and 28-72-10a; amendments to regulations 28-72-2, 28-72-3, 28-72-4, 28-72-4a, 28-72-4c, 28-72-5, 28-72-6, 28-72-7, 28-72-8, 28-72-9, 28-72-10, 28-72-11, 28-72-12, 28-72-13, 28-72-14, 28-72-15, 28-72-16, 28-72-17, 28-72-18, 28-72-18a, 28-72-18b, 28-72-18c, 28-72-18d, 28-72-18e, 28-72-19, 28-72-20, 28-72-21, 28-72-22, 28-72-51, 28-72-52 and 28-72-53; and the revocation of K.A.R. 28-72-1 and 28-72-4b, relating to childhood lead poisoning prevention. The adoptions, amendments and revocations being proposed by KDHE will allow for the continued protection of public health and defend Kansas families against environmental poisoning from lead-based paint hazards.

A summary of the proposed regulations and the estimated economic impact follows:

#### Summary of Regulations:

**K.A.R. 28-72-1a through 28-72-1x. Definitions.** These proposed new regulations allow for the alphabetical listing of defined terms in the regulations that may be easily and quickly located by the user.

**K.A.R. 28-72-2. General requirements for accreditation, licensure, and certification adoption by reference.** This proposed regulation includes changes that allow for out-of-state lead occupation certificate holders to apply for certification in Kansas based upon successful application as defined. This regulation also allows for the adoption by reference of 40 CFR 745.80 through 745.90 allowing KDHE to administer the U.S. Environmental Protection Agency (EPA) Renovation, Repair and Paint-

# AFFIDAVIT OF PUBLICATION

THE McCLATCHY COMPANY, publishers of  
THE KANSAS CITY STAR, a newspaper published in  
the City of Kansas City, County of Jackson, State of  
Missouri, confirms that the notice and/or advertisement of

KANSAS DEPT OF HEALTH & ENVIR

1000 SW JACKSON ST SUITE 410  
TOPEKA KS 66612  
24939585

2913244

a true copy of which is hereto attached,  
was duly published in the above said newspaper

FOR THE PERIOD OF: 1 Day (s)

COMMENCING: September 24, 2009

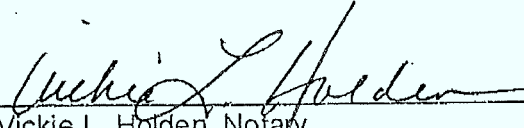
ENDING: September 24, 2009

STAR EDITION (S): 9/24/

STAR PAPER (S): 7

VOLUME: #130

Subscribed and sworn to before me,  
this Thursday, 24 September, 2009 .  
I certify that I was duly qualified  
as a Notary Public for the State of  
Missouri, commissioned in Jackson  
County, Missouri. My commission  
expires September 7, 2010.

  
Vickie L. Holden, Notary

VICKIE L. HOLDEN  
Notary Public - Notary Seal  
State of Missouri  
Commissioned for Jackson County  
My Commission Expires: September 07, 2010  
06394648

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OCT 01 2009  
BUREAU OF AIR

RECEIVED

SEP 28 2009

BUREAU OF  
ENVIRONMENTAL REMEDIATION

*Linda Keith*

STATE OF KANSAS  
Department of Health and  
Environment, Notice of  
Hearing on Proposed Ad-  
ministrative Regulations.  
The Kansas Department  
Health and Environment  
(KDHE) will conduct a  
public hearing on Decem-  
ber 9, 2009, at 3:00pm at  
the Wyandotte County  
Health Department, 619  
Ann Avenue, 3rd Floor  
Auditorium, Kansas City,  
KS. New regulations will  
be considered for the re-  
duction of heavy-duty die-  
sel vehicles and for the re-  
duction of nitrogen oxides  
(NOx) emissions. The pro-  
posed regulations apply  
only to Wyandotte and  
Johnson Counties in Kan-  
sas.  
The proposed idle reduc-  
tion regulations will limit  
engine idle time for large  
heavy-duty diesel vehicles,  
as well as require  
load/unload locations to  
limit engine idle time. The  
proposed NOx reduction  
regulations will require  
two power generating fa-  
cilities and one flat glass  
manufacturing facility to  
add emissions control.  
Upon adoption of the pro-  
posed regulations, KDHE  
will submit a revised State  
Implementation Plan to  
the Environmental Protec-  
tion Agency for approval.  
The time period between  
the publication of this no-  
tice and the scheduled  
hearing constitutes a 60  
day public comment period  
for the purpose of receiv-  
ing written public com-  
ment on the proposed  
regulatory action. All in-  
terested parties may submit  
written comment prior to  
5:00pm on the day of the  
hearing to: Keith Weber,  
KDHE, Bureau of Air, 1000  
SW Jackson St., Ste. 310,  
Topeka, KS 66612, by fax  
to: 785-296-1545, or by  
email: kweber@kdheks.gov.  
All interested parties will  
be given a reasonable op-  
portunity to present their  
views orally on the pro-  
posed regulatory action  
during the hearing. In order  
to give all parties an op-  
portunity to present their  
views, it may be necessary  
to require each participant  
to limit any oral presenta-  
tion to 5 minutes.  
Copies of the proposed  
regulations, complete eco-  
nomic impact statement,  
and complete environ-  
mental benefit statement  
may be obtained by con-  
tacting: Keith Weber  
at 785-291-3278, or  
kweber@kdheks.gov. Cop-  
ies may also be viewed at  
the following locations:  
• Kansas City, KS Health  
Department, 619 Ann  
Avenue, Kansas City,  
KS.  
• Johnson County Envi-  
ronmental Department,  
11811 S. Sunset, Suite  
2700, Olathe, KS.  
• KDHE Northeast Dis-  
trict Office, 800 W.  
24th St., Lawrence, KS.  
• Curtis State Office  
Building, 1000 SW  
Jackson St., Ste. 310,  
Topeka, KS.  
The material is also avail-  
able at  
www.kdheks.gov/bair/publi-  
cnotice.html. Questions  
should be directed to Keith  
Weber, 785-291-3278.  
Any individual with a dis-  
ability may request ac-  
commodation in order to  
participate in the public  
hearing and may request  
the proposed regulations  
and the economic impact  
and environmental benefit  
statements in an accessi-  
ble format. Requests for  
accommodation to partici-  
pate in the hearing should  
be made at least five  
working days in advance  
of the hearing by contacting  
Keith Weber at 785-291-  
3278 or TTY: 1-800-766-  
3777. Roderick E. Bramby  
Secretary of Health and  
Environment

December 3, 2009 Hearing      Proposed K.A.R. 28-19-712 -712d; and K.A.R. 28-19-713 -713d.

**Attachment 2 – sign-in sheet from hearing**

# Public Hearing for Proposed Administrative Regulations

K.A.R. 28-19-712 through K.A.R. 28-19-712d  
K.A. R. 28-19-713 through K.A.R. 28-19-713d

December 3, 2009 - 3:00 P.M.

Wyandotte County Health Department  
619 Ann Avenue, 3rd Floor Auditorium, Kansas City, Kansas

## Sign-In Sheet

Name (please print)	Representing	Address	Verbal and/or Written Testimony
1. Tom Whitaker	KMCA	2900 S Topeka Topeka, KS	Both
2. Eric North	Foley Equip	Topeka KS	None
3. Cindy Kemper	Johnson Co, KS	11811 S Sunset Olathe 66061	Both
4. Keith Weber	KDHE	1000 SW Jackson Topeka, KS	None
5. Mike Butler	IO Co Env Dept	11811 S. Sunset Olathe 66061	Both
6. Joey Malone	Bayer Healthcare	18707 Shawnee Mission Parkway	Both ← none given asked & declined
7. Calvin Ellefson	UGDAR	619 Ann Ave KCKS	—
8. ANDREW BEARD	" "	" "	N/A
9. Emma Envier	EPA-R7	901 N. 5th St. KC, KS 66101	Written
10. Tiffany Le	BSU	4240 N 55th St	Written ← indicated had given prior
11. Amanda Graor	MARC	600 Broadway Blvd. Kansas City, MO 64105	Both
12.			
13.			

KDHE: Keith Weber  
Miles Stotts  
Jennifer Nichols  
Tom Gross

KDHE  
KDHE

December 3, 2009 Hearing      Proposed K.A.R. 28-19-712 -712d; and K.A.R. 28-19-713 -713d.

**Attachment 3 – BOA testimony**



**Testimony for Public Hearing  
December 3, 2009  
Miles Stotts, Bureau of Air, KDHE**

**Proposed New Air Quality Regulations  
K.A.R. 28-19-712 through K.A.R 28-19-712d  
and  
K.A.R. 28-19-713 through K.A.R. 28-19-713d**

Good afternoon Madame Hearing Officer. I am Miles Stotts, from the Bureau of Air at KDHE. The Bureau is proposing two new sets of regulations:

- Kansas Administrative Regulations (KAR) 28-19-712 through KAR 28-19-712a, b, c and d, regarding idle reduction of heavy-duty diesel vehicles; and
- Kansas Administrative Regulations (KAR) 28-19-713 through KAR 28-19-713a, b, c and d, regarding the reduction of nitrogen oxides, or NO<sub>x</sub>, emissions

These regulations are proposed in order to reduce ozone pollution in Johnson and Wyandotte counties in Kansas. Federal regulations required the State of Kansas to address continuing violations of the National Ambient Air Quality Standard by submitting an Ozone Maintenance Plan to reduce ozone precursors such as oxides of nitrogen, or NO<sub>x</sub>. The ozone maintenance plan was required to include contingency measures that would be triggered if the Kansas City area violated the federal ozone standard. The U.S. Environmental Protection Agency, or EPA, officially approved the Kansas City 8-Hour Ozone Maintenance Plan on October 9, 2007. Once these regulations are final, they will be submitted to EPA as revisions to the State Implementation Plan (SIP).

The Maintenance Plan's contingency measures include a heavy-duty diesel truck idle reduction regulation and a NO<sub>x</sub> reduction regulation. The proposed idle reduction regulations will limit engine idle time of heavy-duty diesel vehicles and will apply to all owners and operators of commercial, public and institutional diesel vehicles in Johnson and Wyandotte counties having a gross vehicle weight rating greater than 14,001 pounds. The proposed rules impact heavy-duty diesel vehicles by limiting their idling to no more than 5 minutes in any 60 minute period, unless one of the exemptions applies as listed in the proposed regulations. Additionally, owners and operators of load and unload locations will be required to implement procedures to limit idling of heavy-duty diesel trucks to no more than 30 minutes in any 60 minute period.

The owners and operators of regulated diesel vehicles will save money by conserving fuel, as well as reduce truck maintenance costs by reducing engine wear. The owner of a load or unload location should inform their customers about the idling limitations and may need to provide electrical hookups for trucks or an area for truck drivers to wait while their truck is waiting to load or unload, especially if a truck is not equipped with idle reduction technology. Costs for onboard idle reduction technologies vary, with the most common technology being installation of an auxiliary power unit, or APU that provides electricity to power heating, air conditioning and other creature comforts. An APU is allowed by the proposed regulations as an alternative to idling. The Bureau of Air has received funds from EPA under the Diesel Emissions Reduction Act (DERA) and the American Recovery and Reinvestment Act (ARRA) and is administering grants totaling over \$5 million to assist with the purchase and installation of idle-reduction equipment.

The costs associated with the implementation and enforcement of these proposed regulations will be absorbed by existing resources. The affected local governments' contractual obligations to KDHE concerning air quality will be reprioritized to emphasize the need for public outreach, education and compliance assistance to facilitate the implementation of these idle reduction rules.

The proposed NO<sub>x</sub> reduction regulations will reduce NO<sub>x</sub> emissions at the largest stationary source facilities in Johnson and Wyandotte counties. These proposed regulations will apply to three facilities that emit over 1,000 tons/year of NO<sub>x</sub>. For the power generating facilities, the proposed regulations establish emission rates for NO<sub>x</sub> based on making improvements to the combustion process, not by adding pollution control equipment to the stack.

The two power generating facilities are Nearman Creek Power Station and Quindaro Power Station, both in Wyandotte County and operated by the Kansas City Board of Public Utilities (BPU). During the 2007 analysis of Nearman Creek Power Station under the federal Clean Air Visibility Rule, BPU indicated the emission limits contained in the proposed regulations could be achieved by installing new low NO<sub>x</sub> burners with overfire air and a neural network. According to BPU estimates, this control technology has a capital cost of \$11.68 million, an annual operating and maintenance cost of \$368,000 and cost effectiveness of \$750 per ton of NO<sub>x</sub> reduced. At Quindaro Power Station, the most cost effective technology available is low NO<sub>x</sub> burners with overfire air. According to AirControlNet, an EPA cost analysis tool, this

technology has an estimated capital cost of \$5.2 million, an estimated annual operating and maintenance cost of \$157,000 and an estimated cost effectiveness of \$868 per ton of NO<sub>x</sub> reduced.

The remaining affected facility is AGC Flat Glass North America, located in southern Johnson County. Potential control options for this plant include low NO<sub>x</sub> burners, selective non-catalytic reduction, and oxy-firing. According to AirControlNet, these potential control options have estimated capital costs between \$1.4 million and \$9.5 million, an estimated annual operating and maintenance cost between of \$99,000 and \$2.1 million, and an estimated cost effectiveness between \$1,014 and \$2,754 per ton of NO<sub>x</sub> reduced.

In summary, K.A.R. 28-19-712 through K.A.R. 28-19-712d and K.A.R. 28-19-713 through K.A.R. 28-19-713d are being proposed as a result of the violation in 2007 of the 8-hour ozone standard in Kansas City. These proposed regulations have been developed from the contingency measures contained in the Kansas City 8-Hour Ozone Maintenance Plan. If these proposed regulations are not incorporated into the state regulations, Kansas will be in violation of the maintenance plan that was approved by the EPA. If no action is taken on the approved maintenance plan measures, the EPA has the authority to re-designate the KCMA to non-attainment status, which would impose stricter standards and regulations than those currently being proposed. Finally, the EPA could independently enforce the Kansas City 8-Hour Ozone Maintenance Plan.

KDHE has shared the goals and need for the contingency control measures and solicited input from stakeholders for both sets of proposed regulations. Multiple meetings have been held with BPU and AGC Flat Glass concerning NO<sub>x</sub> reduction regulations. A number of seminars and workshops have been held with members of the trucking community concerning potential idle reduction regulations. Contact has also been made with trucking organizations, such as the Kansas Motor Carriers Association and the Owner-Operator Independent Drivers Association. Full public participation has been encouraged.

The Bureau has provided copies of the proposed regulations and Regulatory Impact Statement to the League of Kansas Municipalities, Kansas Association of Counties, and the Kansas Association of School Boards. That concludes my testimony. Thank you Madame Chairman.



December 3, 2009 Hearing      Proposed K.A.R. 28-19-712 -712d; and K.A.R. 28-19-713 -713d.

**Attachment 4 – public comments**

KANSAS  
ASSOCIATION



OF  
SCHOOL  
BOARDS



RECEIVED

OCT 06 2009

BUREAU OF AIR

1420 Arrowhead Road • Topeka, Kansas 66604-4024  
785-273-3600

October 5, 2009

Mr. Keith Weber  
Kansas Department of Health & Environment  
Curtis State Office Building  
1000 SW Jackson St., STE 400  
Topeka, KS 66612-1367

Dear Mr. Weber:

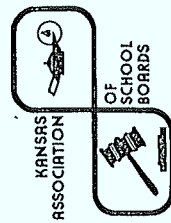
We have received a copy of the proposed Kansas Air Quality Regulations by the Kansas Department of Health and Environment.

Thank you for the opportunity to review this proposed regulatory language. Based on the information provided, it does not appear these proposed regulations will have a detrimental effect on Kansas school districts. However, any additional costs associated with these regulations in the future would be harmful to Kansas school districts, which already face a funding crisis.

Thank you very much for bringing these proposed changes to our attention. If you have any questions please contact me at (785) 273-3600.

Sincerely,

Donna L. Whiteman  
Assistant Executive Director/Attorney



Kansas Association of School Boards  
1420 SW Arrowhead Rd  
Topeka, KS 66604

Return Service Requested

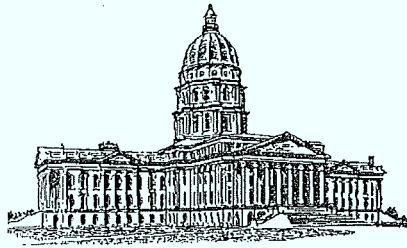


Mr. Keith Weber  
Kansas Department of Health & Environment  
Curtis State Office Building  
1000 SW Jackson Street, Suite 400  
Topeka, KS 66612-1368

66612-1368



STATE OF KANSAS



ALAN D. CONROY  
Director  
RANEY L. GILLILAND  
Assistant Director for Research  
J.G. SCOTT  
Chief Fiscal Analyst  
MARY K. GALLIGAN  
Assistant Director for Information Management

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OCT 16 2009

STAFF SECRETARY OF  
DEPT. HEALTH & ENVIRONMENT  
LEGISLATIVE COORDINATING COUNCIL  
INTERIM COMMITTEES  
STANDING COMMITTEES  
LEGISLATIVE INQUIRIES

KANSAS LEGISLATIVE RESEARCH DEPARTMENT

Room 010-West — State Capitol Building — 300 SW Tenth Avenue — Topeka, Kansas 66612-1504  
PHONE (785) 296-3181 ♦ FAX (785) 296-3824 ♦ TTY (785) 296-3677  
INTERNET: <http://www.kslegislature.org/kldr> E-MAIL: [kslegres@kldr.state.ks.us](mailto:kslegres@kldr.state.ks.us)

October 15, 2009

Mr. Roderick Bremby, Secretary  
Kansas Department of Health and Environment  
1000 SW Jackson  
Building Mail

Dear Secretary Bremby:

At its meeting on October 5, 2009, the Joint Committee on Administrative Rules and Regulations reviewed for public comment rules and regulations concerning definitions; applicability; general requirement for heavy-duty diesel vehicles; general requirement for load or unload locations; exemptions; applicability; emission limitation requirements; alternate emissions limit; control measures and equipment; and compliance demonstration, monitoring, and reporting requirements. After discussion, the Committee had the following comments.

Request. Please provide the Joint Committee with a list of all cities or metropolitan areas, similar in size to the Kansas City Metropolitan area, that are able to meet the federal clean air standards as applied in the regulations and as discussed at the October meeting.

Request. Please inform the Joint Committee whether any of the standards set forth in the regulations are stricter than those required by federal law or by the United States Environmental Protection Agency.

Comment. The Joint Committee thinks that no regulations in the set presented at the October meeting should contain stricter standards than those of our neighboring states. It was noted that some of the regulations outlined contain stricter standards than those in Missouri, for example. Please identify any of the requirements which are more stringent than those being implemented in Missouri.

Prior to filing with the Secretary of State, review the history sections of the rules and regulations to update them to the most recent statutory citations, making certain the citations for authorizing and implementing statutes are correct and complete. Please indicate your agency's website address in the filing notice where proposed regulations can be located. In addition, if your agency accepts written comments by e-mail include this information in the public notice. Further, e-mail requests for public accommodation should be included as a part of the notice. Finally, verify that the adoption by reference of any materials included in the regulations is properly completed as prescribed in the *Policy and Procedure Manual for the Adoption of Kansas Administrative Regulations*.

Secretary Bremby

- 2 -

Please make this letter a part of the public record on these regulations. The Committee will review the regulations which the agency ultimately adopts, and reserves any expression of legislative concern to that review.

To assist in that final review:

- Please inform the Joint Committee and me, in writing, at the time the rules and regulations are adopted and filed with the Secretary of State, of any and all changes which have been made following the public hearing.
- Please notify the Joint Committee and me, in writing, when your agency has adopted the regulations as permanent; delayed implementation of the regulations; or decided not to adopt any of the regulations.
- Also, please indicate separately to the Joint Committee and me, any changes made to the proposed regulations reviewed by the Committee.

Based upon direction from the Committee, failure to respond to each and every comment contained in this letter may result in the request that a spokesperson from your agency appear before the Committee to explain the agency's failure to reply.

Sincerely,



Raney L. Gilliland  
Assistant Director for Research

RLG/jl



# Public Health Department

Joseph M. Connor, Director

619 Ann Avenue  
Kansas City, KS 66101



Phone: (913) 321-4803  
Fax: (913) 321-7932

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OCT 23 2009

BUREAU OF AIR

October 20, 2009

Mr. Keith Weber  
Kansas Department of Health and Environment  
Bureau of Air  
1000 SW Jackson, Suite 310  
Topeka, Kansas 66612

Dear Mr. Weber,

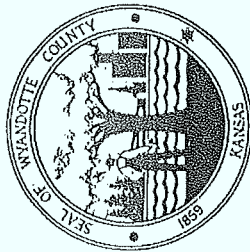
This letter is being written in support of two new proposed air quality administrative regulations, K.A.R. 28-19-712 through K.A.R. 28-19-712d, regarding idle reduction of heavy-duty diesel vehicles; and K.A.R. 28-19-713 through K.A.R. 28-19-713d, regarding the reduction of nitrogen oxide (NOx) emissions. These proposed new regulations are in response to a violation of the eight-hour ozone standard in Kansas City that occurred on August 9, 2007. The 2007 Kansas City Eight-Hour Ozone Maintenance Plan contains contingency measures that are triggered upon a violation of the ozone standard. The measures include the heavy-duty diesel truck idle reduction regulation and a nitrogen oxides reduction regulation for Johnson and Wyandotte counties.

The Department of Air Quality of the Unified Government of Kansas City, KS-Wyandotte County believes that these two proposed NOx reduction regulations are critical to meeting our Ozone Maintenance Requirements and to achieving the Ozone standard in Kansas City. When the national ambient air quality standards are not met, the public's health is at risk.

Sincerely,

Bruce S. Andersen, Director, Department of Air Quality

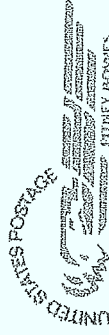
Cc: Joe Connor, Director, Public Health Department



**AIR QUALITY DIVISION  
WYANDOTTE COUNTY HEALTH DEPARTMENT**

619 ANN AVENUE  
KANSAS CITY, KANSAS 66101

PRESORTED  
FIRST CLASS

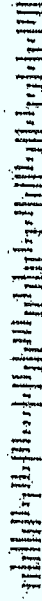


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Mr. Keith Weber  
Kansas Department of Health and Environment  
Bureau of Air  
1000 SW Jackson, Suite 310  
Topeka, Kansas 66612



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**Kansas City,  
Board of Public Utilities**

540 MINNESOTA AVENUE • KANSAS CITY, KANSAS 66101

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DEC 03 2009

BUREAU OF AIR

December 2, 2009

Keith Weber  
Kansas Department of Health and Environment  
Bureau of Air  
1000 S.W. Jackson, Suite 310  
Topeka, KS 66612

Via U.S. Mail and Email [kweber@kdheks.gov](mailto:kweber@kdheks.gov)

Re: Kansas Register, September 30, 2009, Doc. No. 037539  
Kansas City Ozone Maintenance Area Proposed Regulations

Dear Mr. Weber:

This letter is to provide comments to the above-referenced Kansas Department of Health and Environment proposed regulations for the Kansas City Ozone Maintenance Area. Proposed K.A.R. 28-19-713 through 28-19-713d directly impact the Board of Public Utilities' (BPU) Nearman and Quindaro power stations and BPU appreciates this opportunity to provide constructive comments on the proposed regulations.

Pursuant to the Ozone Phase I Contingency Measures proposed in K.A.R. 29-19-713a(a)(1) and (2) BPU must meet specified emissions limits for nitrogen oxides at the BPU Nearman Creek Power Station and at Unit 2 at the BPU Quindaro Power Station. Proposed K.A.R. 28-19-713c and 28-19-713d provide an 18 month time frame after the effective date of the proposed regulation for installation and operation of new control equipment needed to achieve the limits and a 24 month time frame after the effective date of the proposed regulation for a compliance demonstration for the new limits. BPU has carefully evaluated the timeframes proposed in light of the budgeting, engineering, fabrication, installation, and outage times that are requisite to implementing the proposed regulations and has prepared the attached draft summary schedule for implementation of the proposed requirements. BPU requires as to Quindaro Unit 2 an estimated 24 month installation timeframe and a 30 month compliance demonstration timeframe based on a regulation effective date of January 1, 2010. With respect to Nearman, BPU requires an estimated 30 month installation timeframe and a 36 month compliance demonstration timeframe based again on a January 1, 2010 regulation effective date. The basis for the above timeframe estimates are reflected in the attached draft summary schedule. The time needed to accomplish the needed work and achieve the proposed requirements can be summarized in three categories as follows:



1. Financing. BPU will have to obtain bond financing to support the cost of air pollution control equipment needed to achieve the obligations proposed under K.A.R. 29-19-713a(a)(1) and (2). A very rough estimated capital cost for both projects based on the preliminary engineering performed to date is \$40,000,000. The steps needed to advance bond financing require time and are summarized as follows:
  - a. Budget the cash needed to support the project until anticipated bond money is released. The budget process is underway and expected to be complete December 31, 2009.
  - b. Complete the cost of service study BPU already has underway in response to the proposed regulations. The cost of service study is needed to support the electric rate increases that will be required to pay the anticipated bond debt. Completion of the cost of service study is estimated at February 1, 2010.
  - c. Conduct rate hearings including a required 90 day notice period. Completion of rate hearings is estimated at July 1, 2010.
  - d. Bond preparation and Unified Government approval of a bond issuance. This is estimated to be complete September 1, 2010.
  - e. Bond issuance. The estimated sale date is October 1, 2010.
2. Engineering. As we discussed, BPU already is well underway in the engineering of the project. Riley Power has been working for some time to design the low NOx burners and extensive ancillary modifications that are required for the Nearman plant and has been working on the engineering for the Quindaro plant as well. We have provided information previously regarding the engineering and installation challenges that the rather unique hourglass configuration of the Nearman boiler presents.
  - a. Additional engineering required to provide more detailed designs, cost estimates, schedules and required permit application information is estimated to be complete for both the Nearman plant and the Quindaro 2 plant by April 1, 2010.
  - b. Riley requires 52 weeks for fabrication and delivery of the equipment for both Nearman and Quindaro. We already have worked with Riley to attempt to minimize the time needed for the fabrication and the 52 week timeframe is the realistic time estimate. The estimated equipment delivery to Quindaro is October 1, 2011 and to Nearman is March 1, 2012.
3. Installation and Compliance Demonstration. The installation of the equipment at both plants requires a major outage. Our outages are spring and fall to avoid peak power demand periods including the period of anticipated demand obligations via the Southwest Power Pool. Of course, we must stagger the schedule for the required major outages.
  - a. Installation of required equipment at Quindaro can occur during the fall 2011 major outage. The estimated completion of installation is December 31, 2011. The estimated completion of the compliance demonstration is June 1, 2012.
  - b. Installation of required equipment at Nearman can occur during the spring 2012 major outage. The estimated completion of installation is June 1, 2012. The estimated completion of the compliance demonstration is December 1, 2012.

As the enclosed draft summary schedule depicts, while the above is occurring we will be pursuing any permits required for the projects, pursuing contract negotiations and signature, and

working with the BPU Board and the Unified Government Board to obtain required approvals and support for required financing.

BPU is committed to doing the work needed to achieve the Phase I Contingency Measures. The above timeline will allow the work to be completed as expeditiously as possible. BPU requests that the proposed regulations be modified to provide as to Quindaro a requirement for a 24 month installation timeframe and a 30 month compliance demonstration timeframe and with respect to Nearman a 30 month installation timeframe and a 36 month compliance demonstration timeframe based on a January 1, 2010 regulation effective date.

Please contact me if you would like to discuss our comments and requests.

Sincerely,

 For Darrell Dorsey

Darrell D. Dorsey  
Manager Electric Production and Supply

Cc: Don Gray  
Tiffany Le

END	DATE	6
11/10	PERMAN	band

Q2

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## UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 7  
901 NORTH 5TH STREET  
KANSAS CITY, KANSAS 66101

Rick Brunetti  
Director  
Kansas Department of Health and Environment  
Bureau of Air and Radiation  
1000 SW Jackson, Suite 310  
Topeka, KS 66612-1366

Dear Mr. Brunetti:

Environmental Protection Agency (EPA) appreciates the opportunity to provide written comments on the Nitrogen oxides (NOx) Emission Reduction rule, 28-19-713 and the Idle Reduction rule 28-19-350. Please consider the following comments:

### Idle Reduction Rule

1. In terms of the idle limits for load/unload facilities, EPA understands that your intent in drafting this rule is that all applicable vehicles must limit idling to five minutes during any 60-minute period, except at commercial load/unload facilities (involving loading or unloading of materials rather than persons), where commercial vehicles may idle up to 30 minutes. We further understand the proposed rule to require that vehicles at load/unload facilities such as bus stops or schools are still subject to the five minute restriction. If this is the correct intent of the regulation, EPA suggests that there may be additional language which could clarify the intent in either the definitions, section 28-19-712(g), or in the general requirement for load or unload locations section 28-19-712c. For example, 28-19-712c could be revised to add that the 30-minute provision only applies to commercial vehicles which load or unload materials and does not apply to commercial passenger vehicles.
2. EPA encourages the state to retain the language in 28-19-712d (b) which indicates that emergency response vehicles are also subject to the idle limits when not in emergency or training mode.
3. EPA requests that KDHE provide a detailed explanation of how this rule will be enforced (and by whom) and what penalties will be assessed for violations of the regulation.

4. EPA requests that KDHE provide an explanation of why the 14,001lbs base weight limit was used to define a heavy duty diesel vehicle as opposed to the 8,000 - 10,000 lbs weight limit recommended by EPA's model idle rule.

(NOx) Emission Reduction Rule

1. The approved maintenance plan requires that Phase 1 contingency measures be implemented within 24 months after the trigger date. In this instance, the trigger date was August 2007. Because the implementation deadline in the State Implementation Plan will not be met, we request that KDHE provide a justification for why the deadline could not be met. We are available to discuss the content of the justification with the department as necessary.

If you or your staff have any questions or would like to discuss these comments, please feel free to contact me at (913) 551-7078.

Sincerely,



Joshua A. Tapp

Branch Chief

Air Planning and Development Branch



600 Broadway, Suite 200  
Kansas City, Missouri 64105-1659

816/474-4240  
816/421-7758 FAX  
www.marc.org



Keith Weber  
Kansas Department of Health and Environment  
Bureau of Air  
1000 SW Jackson, Suite 310  
Topeka, KS 66612

Re: K.A.R. 28-19-712 **Idle Reduction of Heavy-Duty Diesel Vehicles**  
K.A.R. 28-19-713 **Reduction of Nitrogen Oxides Emissions**

Dear Sir or Madam:

Please consider this letter as a part of the formal public comment record for the above proposed rules as published in the September 24, 2009 *Kansas Register*.

The proposed rules are consistent with air quality plans and policies endorsed by the Mid-America Regional Council's Air Quality Forum, including the region's Clear Air Action Plan, the contingency measures outlined in the Kansas State Implementation Plan and state rules that have been supported in the past.

**K.A.R. 28-19-712 – Idle Reduction of Heavy-Duty Diesel Vehicles**

We feel that the proposed rule is consistent with the EPA Model State Idling Law, supports air quality protection efforts in the Kansas City region, and will provide for consistent regulations across the state line in our bi-state maintenance area. The EPA Model Law, after which this proposed rule was modeled, was written after discussion workshops with interested stakeholders represented in several cities across the country. Workshop participants agreed that mutual responsibility was important in order for the rule to be enforceable.

The Kansas City Ozone Maintenance Area has a number of commercial warehousing and distribution centers, in no small part due to being the second largest rail hub in the country. With the high level of truck and train traffic through the area, Kansas City is dealing with issues regarding both the 1997 ozone standard and the 2008 ozone standard. Emissions from heavy duty diesel vehicles significantly contribute to ground-level ozone formation, among other contaminants. Further emissions reductions are necessary in order to address previous violations and anticipated violations of the new standard.

During conversations at the EPA workshops, truck drivers indicated that logistical issues often keep them from loading or unloading, creating longer wait times for the drivers. By holding these facilities jointly accountable for inefficient loading/unloading procedures and scheduling, there is a higher likelihood of making this rule effective. The loading/unloading facilities have a number of options in order to address the comfort of the drivers while waiting in line without losing their spot or becoming delayed. Retaining the requirements for mutual responsibility of idle reduction is key to the success of the rule. The removal of such requirements would hinder the effectiveness of this measure.

Chair  
Tom Cooley  
Commissioner  
Unified Government  
of Wyandotte County/  
Kansas City, Kan.

1st Vice Chair  
Jim Schultz  
Councilmember  
Independence, Mo.

2nd Vice Chair  
Marge Vogt  
Councilmember  
Olathe, Kan.

Treasurer  
Jim Plunkett  
Commissioner  
Platte County, Mo.

Secretary  
Jan Marcason  
Councilmember  
Kansas City, Mo.

Executive Director  
David A. Warm

Please note that the voluntary vehicle idling guidelines that the Mid-America Regional Council is working on are not a substitute for such state rules and should not be considered as such. The voluntary guidelines are intended to complement state rules by encouraging idle-reduction at facilities not covered under this rule. Additionally, MARC efforts seek to advance the educational and informational aspects of anti-idling and alternative device options for truck drivers and load/unload facilities.

In addition, the Missouri Department of Natural Resources (MDNR) has already implemented a rule similar to this proposed rule. Since the Kansas City Ozone Maintenance Area is on both sides of the state line, consistent regulations are important for many reasons, from community acceptance to ease of enforcement.

Based on the environmental implications, MARC recognizes the importance of joint responsibility in the effort to reduce idling at the types of facilities outlined in the rule.

**K.A.R. 28-19-7134 - Reduction of Nitrogen Oxides Emissions**

As stated in the region's Clean Air Action Plan, "...area officials recognize that controlling NOx emissions is more critical than previously thought." As mentioned in regards to the diesel idling rule, the Kansas City region is already struggling with the 2008 NAAQS for ozone, and is expected to be designated as nonattainment in the next few years based on an anticipated revised 2010 ozone standard. It is vital that we, as a region, do everything we can to reduce the impact of NOx emissions and acknowledge their role in ozone formation to reduce the impact of a nonattainment designation in the future.

As part of the Clean Air Action Plan, Kansas City Power & Light committed to reducing the air quality impacts of its power plants, and after installing a selective catalytic reduction system on plants in La Cygne, Kansas and Weston, Missouri, the reduction in NOx emissions has exceeded projections. The La Cygne and Iatan Plants saw ozone season NOx emission reductions of 91% and 71% respectively, and these efforts were made on a voluntary basis. It is imperative that all power generating and manufacturing facilities take on equal efforts to reduce their ozone precursor emissions to the highest extent possible.

We appreciate the opportunity for public comment on these rules.

Sincerely,

A handwritten signature in cursive script that reads "Amanda Graor".

Amanda Graor  
Senior Air Quality Planner

cc: Air Quality Forum

**Public Hearing Testimony**  
**Johnson County Environmental Department**  
**Proposed K.A.R. 28-19-713 through 28-19-713d**  
**Reduction of Nitrogen Oxides**  
**December 3, 2009**

Good afternoon. My name is Mike Boothe, Environmental Compliance Manager-Air Quality of the Johnson County Environmental Department. Our offices are at 11811 S. Sunset Drive in Olathe, 66061. The Environmental Department works in partnership with KDHE's Bureau of Air on air quality issues in Johnson County. The state contracts with us to inspect air contaminant sources for compliance with state air pollution regulations. I am the inspector of the sources that are located within Johnson County.

Today I am here to offer our support for proposed regulations K.A.R 28-19-713 through 28-19-713d pertaining to the reduction of nitrogen oxides from sources that emit at least 1,000 tons annually. The Kansas City region is once again in violation of the health-based ozone standard established by EPA and nitrogen oxides are one of the main constituents leading to ozone formation.

In Johnson County, these proposed regulations would affect one facility, the AGC Flat Glass plant located in Spring Hill. This source operates 24 hours per day, 365 days per year. Since operations first started in 1989, this source has shutdown only one time, two years ago, when the entire furnace had to be rebuilt due to age.

Because AGC is located on the southern county line of Johnson County, summer-time emissions from the plant travel across the entire region with the predominant southern winds. These emissions potentially affect the health and well-being of all the people in the region. For those that have chronic or acute lung diseases or conditions, it is especially important that we reduce ozone levels and achieve the EPA standard. Though the cost of adding controls at the AGC plant will not be insignificant, neither is the cost for medications, doctors visits, breathing treatments, or hospitalizations to those people who suffer as a result of the high levels of ground-level ozone. That is the goal for this regulation, to protect the health of our citizens. If you have never had such a condition, may I suggest that you follow the suggestion of a recent commercial for asthma—get a plastic straw and try breathing through it for five minutes and you'll quickly



understand how dirty air affects those with asthma, emphysema, pneumonia and other lung problems. Then you will understand how important these regulations and achieving the ozone standard really are.

Thank you for the opportunity to testify.

**Public Hearing Testimony**  
**Johnson County Environmental Department**  
**Proposed K.A.R. 28-19-712 through 28-19-712d**  
**Idle Reduction of Heavy-Duty Diesel Vehicles**

December 3, 2009

Good afternoon. My name is Cindy Kemper, Director of the Johnson County Environmental Department. Our offices are at 11811 S. Sunset Drive in Olathe, 66061. The Environmental Department works in partnership with KDHE's Bureau of Air on air quality issues in Johnson County. In fact, the state contracts with us to inspect air contaminant sources for compliance with state air pollution regulations.

Today, however, I am here on behalf of all of Johnson County Government including the Board of County Commissioners to offer our support for proposed regulations KAR 28-19-712 through 28-19-712d pertaining to heavy duty diesel vehicle idling. I would qualify our support by stating that we oppose any weakening of the proposed regulations and in fact, we urge KDHE to strengthen them in three (3) key ways: 1) by providing additional resources to conduct effective education, outreach and enforcement at the county level; 2) by providing for a phase-out of the exemption that allows idling during government-mandated rest periods; and 3) by adding provisions to ensure that load and unload locations are designed and operated so as not to cause heavy-duty vehicles to idle unnecessarily.

Johnson County has a vested interest in ensuring that emissions from truck idling are reduced. We are experiencing increased commercial truck traffic as a result of expanding warehouse development and the expected opening of a new rail intermodal facility and freight logistics park. Trucking operations in Johnson County are expected to grow once the intermodal facility opens, and new warehousing and distribution centers are already under construction to serve the intermodal.

Almost all the vehicles that will use the intermodal facility and the associated warehouses are large heavy duty trucks that burn diesel fuel. Heavy duty diesel trucks are a major source of air emissions in Johnson County, as well as throughout the larger Kansas City region.

Because heavy duty trucks have not been required to meet stricter federal tailpipe standards until recently, one “average” heavy duty truck on the road today creates the same amount of air pollution as 150 “average” cars which have been subject to stricter tailpipe standards for years. An older, dirtier diesel truck can emit almost eight tons of pollution per year, or up to 240 tons of pollution over the life of the engine. Diesel engines last a long time, so heavy duty truck fleet turnover is very slow. This means that it will be many years before we will enjoy the full air quality and health benefits of cleaner engines now required by the federal government on new trucks.

Johnson County is concerned about the emissions from diesel trucks because they are a significant contributor to ground-level ozone. In fact, heavy duty diesel trucks are responsible for at least 22 percent of all the nitrogen oxides emitted from all sources in the Kansas City region. Nitrogen oxides are a major ingredient in ozone, the federal health-based standard for which the Kansas City region, including Johnson County, violates. Further, the 22 percent number will likely be revised much higher when EPA launches their new mobile source emissions model early next year. This is because past EPA models have under-estimated the contribution of heavy duty trucks to the overall nitrogen oxides emissions inventory. What this means is that heavy duty trucks are probably a much bigger contributor to the Kansas City region’s ozone problem than we previously thought.

To make matters worse, EPA is expected to lower the federal ozone standard again next year, making it even more difficult for the Kansas City region to achieve the standard and making it all the more imperative that we implement reasonable measures to reduce the emissions that cause ozone as soon as possible. The federal Clean Air Act requires the region, including Johnson County, to reduce emissions by enough to achieve the standard. Reducing emissions can be costly, and in fact, most of the other major sources of emissions that cause ozone have already borne the economic cost of installing local pollution controls. If we fail to control emissions from heavy duty diesel trucks, we have effectively increased the cost burden on other sources of emissions – with a potentially significant and adverse impact on economic development in other commercial sectors.

Aside from ozone pollution, diesel trucks are also responsible for 62 percent of fine particle (particulate) pollution nationwide, and are a significant source of air toxic emissions such as benzene and formaldehyde. EPA classifies diesel particulate emissions as a probable carcinogen, and a growing body of scientific research indicates that high enough exposures can and does lead to adverse health impacts in people living or working near concentrated diesel emissions sources. Diesel emissions can also pose a nuisance and interfere with quality of life due to smell, noise and visibility.

The proposed KDHE regulations, once fully implemented and adequately enforced, would reduce these adverse impacts by reducing unnecessary idling of heavy duty diesel trucks. There are at least 21 states, 22 cities and 52 counties have already adopted controls on vehicle idling, so KS is not on the cutting edge of this concept.

Research shows that idling diesel trucks contribute twice as much pollution to the air as diesel trucks driven at regular roadway speeds. Some diesel trucks idle as long as 10 hours at a time and spend up to half of the time they are operating in an "idle" mode with the engine running.

Some idling of vehicles is unavoidable and necessary. However, much of it is not. Studies estimate that the average heavy duty truck idles unnecessarily for up to .7 hours per day (about 42 minutes). Loading and unloading locations such as warehouses and distribution centers can contribute to unnecessary truck idling through things such as:

- inefficient scheduling of truck arrivals and departures;
- inefficient truck traffic patterns on the facility grounds;
- gate design that does not accommodate traffic volume, resulting in long queues;
- absence of staging or parking areas for trucks that arrive off schedule;
- insufficient signage to reinforce no-idling policies.

We strongly support the provision in the proposed KDHE regulations that holds the owners and operators of load and unload locations jointly responsible along with vehicle owners and operators for limiting unnecessary idling at warehouses,

distribution centers and the like. It is often not the vehicle operator's fault for inefficient scheduling at the warehouse that leads to long lines of idling trucks waiting their turn to pick up or drop off their freight. It requires a commitment on behalf of both parties to reduce the unnecessary idling that occurs at these sites.

I would like to close by returning to the 3 things we believe would strengthen the effectiveness of the proposed regulations to further reduce emissions.

- 1) First, the regulations will only be effective if KDHE commits additional resources at the local level to conduct outreach, education and timely enforcement. It will be very difficult, if not impossible, for the state to perform these duties from Topeka or Lawrence. Further, without additional resources, Johnson County will be unable to assist the state in performing these activities locally. We urge KDHE to consider these local resource needs as the regulations are finalized and implemented.
- 2) Second, the proposed regulations provide an exemption for idling during government-mandated rest periods in order to operate heating and cooling systems. While this exemption may be necessary in the short run, a growing number of heavy-duty diesel commercial vehicles are equipped with auxiliary power units that allow heating and cooling systems to run without idling the main engine. Millions of dollars in federal grant funding has been available for several years now to help offset the cost to trucking companies install these and other similar technologies which eliminate the need to idle engines during any rest periods, government-mandated or not. We would support a phase-out of this exemption in the proposed regulations to expedite the use of this new technology and to further reduce emissions.
- 3) Finally, while the proposed regulations hold loading and unloading locations responsible for any unnecessary truck idling that they may cause, the regulations do not go far enough in establishing design and operating standards for these locations to reduce the need for trucks to idle. The Johnson County Board of County Commissioners has recently adopted standards to reduce truck idling at new warehouses and distribution centers in the unincorporated area of the

county. The standards include things like installing “no idling” signage; installing electrical outlets for trucks to use to operate auxiliary systems without engine idling; establishing set-back zones that separate residential land uses from concentrated trucking operations at warehouses; providing for comfort areas where truckers can get out of their vehicles to use a rest-room or vending machine; and providing training to warehousing employees to ensure efficient loading and unloading scheduling. In an informal survey of several warehousing operations located in the Kansas City area, we found that most are already doing these things for reasons other than air quality (e.g., fuel savings). In fact, no warehousing or distribution operation commented in opposition to the County’s standards. I have attached the county’s new standards to my testimony for consideration by KDHE.

In closing, Johnson County believes the proposed state idling regulations represent an effective, balanced approach to the mitigation of potential air quality and health impacts of growing trucking operations in Johnson County and the greater Kansas City area – without undue cost or economic impact to the private sector. In fact, we believe that the regulations will actually save money by reducing fuel usage. We would urge KDHE to consider strengthening the regulations as we have suggested to maximize the emission reductions we need to protect public health from air pollution and to achieve the federal ozone standard. Thank you for the opportunity to testify.

**Enclosure:** Exhibit A - Johnson County Regulations to Restrict Heavy Duty Diesel Truck Idling at New Warehousing and Distribution Centers (adopted November 5, 2009)



**EXHIBIT A**  
**BOARD OF COUNTY COMMISSIONER'S RESOLUTION NO. 084-09**

**ARTICLE 14.**  
**PLANNED EMPLOYMENT CENTER DISTRICTS**

A. Article 14, Section 4, B.19. Planned Research, Development and light Industrial Park District (PEC-3) of the Zoning and Subdivision Regulations of Johnson County, Kansas, shall be, and hereby is amended to read as follows:

19. Warehouse/Distribution including heavy duty diesel trucking and courier services, warehousing and storage, and motor freight transportation terminals and maintenance facilities.
  1. Except for loading/unloading operations, heavy duty diesel vehicles with a gross vehicle weight of over 14,001 pounds shall be restricted from idling on-site for no more than 5 minutes in any 60 minute period. For loading/unloading operations, idling shall be restricted to no more than 30 minutes in any 60 minute period. The following exceptions shall apply to this section:
    - a. Emergency vehicles performing their emergency duties;
    - b. Vehicles that must idle to operate auxiliary equipment to accomplish the intended use of the vehicles such as mixing, refrigerating, or operating a hydraulic lift. The exemption does not apply when the vehicle idling is solely for cabin comfort or to operate non-essential equipment such as air conditioning, heating, microwave ovens, or televisions except in the case of a safety or health emergency;
    - c. Vehicles in extreme hot or cold weather;
  2. One electrical hook-up shall be provided for "trucker plug-ins" equal to a minimum of one-third (1/3) of the total number of truck bays at the facility to eliminate excessive idling by heavy duty diesel vehicles with a gross vehicle weight of over 14,001 pounds. Approval to use alternative technologies to eliminate excessive idling may be requested, but shall not be approved unless the applicant demonstrates that they are at least as effective as electrical hook-ups;

3. Signs shall be posted by owner(s) of the facility at each vehicle entrance to the facility notifying drivers of heavy duty diesel vehicles with a gross vehicle weight of over 14,001 pounds to turn-off engines when not in use;
4. The operation and idling of heavy duty diesel vehicles with a gross vehicle weight of over 14,001 pounds, including circulation, shall be restricted within 300 feet of any property zoned for or committed to residential use, or the owner/developer shall provide alternative measures including the possible installation of a wall or other mitigating measures to assure buffering of residences from heavy-duty truck operations, unless the owners of property located adjacent to said heavy duty diesel truck operations consent and agree, in writing to:
  - a. Allow the location of heavy-duty diesel truck operations within 300 feet of their property zoned for and committed to residential use, and
  - b. Restrict areas of their property located within 300 feet of adjacent trucking operations to only non-residential uses;
5. Warehouse managers and employees shall be trained by the employer(s) or operator(s) of the facility to use efficient scheduling and load management to eliminate unnecessary operation, queuing, or idling of heavy duty diesel vehicles with a gross vehicle weight of over 14,001 pounds;
6. Warehouse managers and employees shall be provided by the employer(s) or operator(s) of the facility with information about the possible effects of diesel emissions on their own health and the importance of being a good neighbor by minimizing idling and avoiding other potentially adverse impacts on adjacent or nearby residences;
7. Where feasible, on-site services should be made available to vehicle drivers to reduce idling. These services may include restroom facilities, seating for drivers waiting for their cargo to be loaded or unloaded, and/or food/beverage vending machines.
8. Where feasible, any motorized equipment used within the proposed development should utilize clean technology propulsion and/or alternative fuels such as electricity or propane;



9. Where feasible and, if fuel dispensing facilities are provided on-site, alternative clean fuels should be provided at these dispensing facilities.

B. All of the terms and provisions of Article 14, Section 4 of the Zoning and Subdivision Regulations of Johnson County, Kansas, shall remain the same, except for the above designated amendments.

**Comments on  
Proposed Administrative Rules K.A.R. 28-19-712 through K.A.R. 28-19-712d  
By the  
Kansas Department of Health and Environment  
Division of Environment  
Bureau of Air**

**Presented  
Thursday, December 3, 2009  
Wyandotte County Health Department  
619 Ann Ave.  
Kansas City, Kansas**

**Presented by:  
Tom Whitaker, Executive Director  
Kansas Motor Carriers Association  
PO Box 1673  
Topeka, Kansas 66601-1673**

I am Tom Whitaker, executive director of the Kansas Motor Carriers Association (KMCA) with offices in Topeka, Kansas. I appear here this afternoon representing our 1,055 members and the highway transportation industry to comment on the adoption of K.A.R 28-19-712 through K.A.R. 28-19-712d concerning idling reduction of heavy-duty diesel vehicles.

KMCA understands the necessity for adoption of the proposed regulations due to greater Kansas City's violation of the eight-hour ozone standard which triggered the Eight-Hour Ozone Maintenance Plan. We also appreciate the Department's use of the EPA's model legislation to draft these rules. Use of the model legislation creates a framework to base anti-idling regulations on and provides for uniformity between jurisdictions. I personally want to thank the KDHE staff for the open lines of communication between government and the trucking industry during the development of these regulations.

KMCA has two concerns with the regulations as written:

(1) The applicability of the rules found in K.A.R. 28-19-712a applies in Johnson and Wyandotte counties to "(a) any heavy-duty diesel vehicle that is also a commercial vehicle, institutional vehicle, or public vehicle; or (b) any load or unload location." KMCA believes the regulation should be amended to include all mobile diesel equipment, including construction equipment and locomotives. In addition, the exemption for agriculture also should be removed and the term "commercial vehicle" should be eliminated to ascertain that heavy-duty diesel farm trucks are subject to the regulations; and,

(2) An exemption should be added to reward those operators of heavy-duty diesel vehicles who have embraced "clean diesel" technology or purchased 2007 or newer trucks meeting EPA's required reductions in nitrogen oxides and particulate matter.

The Kansas trucking industry is willing to do our part to clean the air in greater Kansas City and strongly believes the vehicles to which these rules would apply be broadened. We thank you for the opportunity to appear before you this afternoon and would be pleased to respond to any questions you may have.

December 3, 2009 Hearing      Proposed K.A.R. 28-19-712 -712d; and K.A.R. 28-19-713 -713d.

**Attachment 5 – agency responsiveness summary**

## ATTACHMENT TO THE REPORT OF THE HEARING OFFICER

**K.A.R. 28-19-712 through K.A.R. 28-19-712d**

**K.A.R. 28-19-713 through K.A.R. 28-19-713d**

### Final New Regulations

#### Legal Authorities

Kansas Statutes Annotated (K.S.A.) 65-3005, as amended, authorizes and directs the secretary to adopt such rules and regulations as necessary to enable the secretary to carry out the purpose and provisions of the Kansas Air Quality Act, K.S.A. 65-3001 *et seq.* and amendments thereto.

#### Responsiveness Summary

On December 3, 2009, a public hearing was held at 3:00 PM at the Wyandotte County Health Department in Kansas City, Kansas. The purpose of the hearing was to consider the adoption of the following air quality regulations and the concurrent revision of the State Implementation Plan (SIP).

Regulation	Purpose
K.A.R. 28-19-712 through K.A.R. 28-19-712d	Idle reduction of heavy-duty diesel vehicles
K.A.R. 28-19-713 through K.A.R. 28-19-713d	Reduction of nitrogen oxides (NO <sub>x</sub> ) emissions

The public comment period began with the publication of the Notice of Hearing on Proposed Administrative Regulations in the Kansas Register on September 24, 2009, and ended at the close of business on December 3, 2009. The organizations and people that submitted comments during the public comment period are summarized in the table below.

Organization	Name	Type of Comment
Johnson County Environmental Department	Mike Boothe	Written & Verbal
Johnson County Environmental Department	Cindy Kemper	Written & Verbal
Joint Committee on Administrative Rules and Regulations	Raney L. Gilliland	Written
Kansas Association of School Boards	Donna L. Whiteman	Written
Kansas City Board of Public Utilities	Darrell D. Dorsey	Written
Kansas Motor Carriers Association	Tom Whitaker	Written & Verbal
Mid-America Regional Council	Amanda Graor	Written & Verbal
United States Environmental Protection Agency, Region 7	Joshua A. Tapp	Written
Wyandotte County Department of Air Quality	Bruce S. Anderson	Written

- The Joint Committee on Administrative Rules and Regulations (JCARR) considered the proposed regulations at its meeting on October 5, 2009. KDHE received comments from JCARR on October 16, 2009. A copy of the letter can be found in Attachment 4 of the Report of the Hearing Officer. JCARR's comments and KDHE's responses follow. KDHE is also sending a letter to Raney Gilliland for JCARR.

**Comment:** "Please provide the Joint Committee with a list of all cities or metropolitan areas, similar in size to the Kansas City Metropolitan area, that are able to meet the federal clean air standards as applied in the regulations and as discussed at the October meeting."

**Response:** A list of metropolitan areas similar in size to the Kansas City Metropolitan Statistical Area (MSA) was analyzed by compiling MSAs with  $\pm 10\%$  of the population of the Kansas City MSA. These MSAs are listed in the table below, as well as their corresponding designations for the 1997 and 2008 ozone standards.

Metropolitan Statistical Area	Population Estimate as of July 1, 2008 <sup>1</sup>	1997 Ozone Designation	2008 Ozone Designation (state-recommended <sup>2</sup> )
San Jose-Sunnyvale-Santa Clara, CA	1,819,198	Nonattainment	Nonattainment
Las Vegas-Paradise, NV	1,865,746	Nonattainment	Nonattainment
Kansas City, MO-KS	2,002,047	Attainment	Nonattainment
San Antonio, TX	2,031,445	Attainment	Nonattainment
Orlando-Kissimmee, FL	2,054,574	Attainment	Attainment
Cleveland-Elyria-Mentor, OH	2,088,291	Maintenance	Nonattainment
Sacramento-Arden-Arcade-Roseville, CA	2,109,832	Nonattainment	Nonattainment
Cincinnati-Middletown, OH-KY-IN	2,155,137	Nonattainment	Nonattainment

After researching each MSA listed above, only the Orlando-Kissimmee MSA was recommended as meeting the 2008 National Ambient Air Quality Standards (NAAQS) for ozone. However, the Orlando-Kissimmee MSA is only narrowly meeting the 2008 ozone NAAQS limit of 0.075 parts per million (ppm), as illustrated by the table below.

County in the Orlando-Kissimmee MSA	Site ID / Site Name	Ozone Design Value 2006-2008 (ppm)
Lake	069-0002 / Lost Lake	0.074
Orange	095-0008 / Wineguard	0.075
Orange	095-2002 / Lake Isle	0.075
Osceola	097-2002 / Fire Street	0.072
Seminole	117-1002 / Seminole CC	0.072

**Action:** No change was made to the proposed regulations as a result of this comment.

<sup>1</sup> Source: U.S. Census Bureau, Population Division. [Table 7. Cumulative Estimates of Population Change for Metropolitan Statistical Areas and Rankings: April 1, 2000 to July 1, 2008 (CBSA-EST2008-07).] Release Date: March 19, 2009. <http://www.census.gov/popest/metro/tables/2008/CBSA-EST2008-07.xls>

<sup>2</sup> The designation process for the 2008 ground-level ozone standard is under way. States were required to submit designation recommendations to the EPA by March 12, 2009.



**Comment:** “Please inform the Joint Committee whether any of the standards set forth in the regulations are stricter than those required by federal law or by the United States Environmental Protection Agency.”

**Response:** None of the standards in the regulations are stricter than required by federal law or by the United States Environmental Protection Agency (EPA). There are no idle reduction laws, statutes or rules that have been enacted by the federal government or by the EPA. However, in April 2006, the EPA released its Model State Idling Law<sup>3</sup> to assist states in developing idle reduction laws. A disclaimer is included in the Model State Idling Law, which in part reads, “EPA is not promulgating any type of regulation regarding vehicle idling. EPA’s role is limited to that of a facilitator on behalf of the Federal government to respond to the trucking industry’s request to better involve the trucking industry in the development of idle reduction laws and achieve greater compliance with such laws.”

The Kansas regulations have been written in accordance with the Phase I contingency control measures contained in the federally-approved 2007 Kansas City 8-Hour Ozone Maintenance Plan.<sup>4</sup> The Phase I contingency control measures were triggered upon violation of the eight-hour ozone standard in the Kansas City ozone maintenance area in the summer of 2007.

**Action:** No change was made to the proposed regulations as a result of this comment.

**Comment:** “The Joint Committee thinks that no regulations in the set presented at the October meeting should contain stricter standards than those of our neighboring states. It was noted that some of the regulations outlined contain stricter standards than those in Missouri, for example. Please identify any of the requirements which are more stringent than those being implemented in Missouri.”

**Response:**

**A. K.A.R. 28-19-712 through K.A.R. 28-19-712d (Idle Reduction of Heavy-Duty Diesel Vehicles)**

Minor changes were made to K.A.R. 28-19-712c and K.A.R. 28-19-712d to align the regulations with Missouri’s regulations and the EPA Model State Idling Law.

A chart is attached that compares the EPA Model State Idling Law, the regulations originally proposed by Missouri, the final regulations enacted by Missouri, and the final Kansas regulations. There are certain aspects of the Kansas idle reduction regulations that are different than Missouri’s regulations.

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<sup>3</sup> The EPA Model State Idling Law can be viewed on the Internet at <http://epa.gov/smartway/documents/420s06001.pdf>

<sup>4</sup> The Kansas City 8-Hour Ozone Maintenance Plan (State of Kansas) can be viewed on the Internet at [http://www.kdheks.gov/bar/planning/2007\\_KC\\_8-Hr\\_Ozone\\_Maint\\_Plan.pdf](http://www.kdheks.gov/bar/planning/2007_KC_8-Hr_Ozone_Maint_Plan.pdf).

- Treatment of load/unload locations

The time limit for idling while waiting at freight load/unload locations is 30 minutes in any 60-minute period in both the Kansas regulations and the Missouri regulations. As originally proposed, K.A.R. 28-19-712c applied to all load/unload locations, including those for people. A change has been made so that only *freight* load/unload locations are covered by the general requirements of K.A.R. 28-19-712c. Thus, buses will only be allowed to idle for 5 minutes in any 60-minute period at bus stops or other load/unload locations for people, except as allowed by the exemptions in K.A.R. 28-19-712d.

In the Kansas regulations, the owner or operator of a load/unload location is responsible to ensure idling times do not exceed 30 minutes in any 60-minute period. Having the accountability placed with the owner or operator of the load/unload location is taken directly from the EPA Model State Idling Law.

As originally proposed in the Missouri regulations, the responsibility was placed on the load/unload owner or operator to ensure idling times were not exceeded. However, this was changed after Missouri's public comment period. In the final Missouri regulations, the responsibility is placed on the truck driver for not exceeding idling time limits at freight load/unload locations.

- Buses at load/unload locations

As originally proposed in the Kansas regulations, the idle limit at load/unload locations was 30 minutes in any 60-minute period for commercial<sup>5</sup> buses, and 5 minutes in any 60-minute period for institutional<sup>6</sup> and public<sup>7</sup> buses. In order to provide uniformity for all buses, K.A.R. 28-19-712c was modified so that all buses (including commercial buses), regardless of location, will be limited to idling 5 minutes in any 60-minute period, except as provided in the exceptions in K.A.R. 28-19-712d. In the Missouri regulations, the idle time limit for any bus is also 5 minutes in any 60-minute period.

- Passenger comfort on buses

As originally proposed in the Kansas regulations, there was no specific allowance for buses to idle to maintain passenger comfort. In order to align the Kansas regulations with Missouri's regulations and the EPA Model State Idling Law, an exemption was added to K.A.R. 28-19-712d to allow buses to idle for 15 minutes in any 60-minute period to maintain passenger comfort while non-driver passengers are onboard.

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<sup>5</sup> In the proposed Kansas regulations, a commercial vehicle is one that is designed, used, and maintained for the transportation of persons or property for hire, compensation, or profit or in the furtherance of a commercial enterprise.

<sup>6</sup> In the proposed Kansas regulations, an institutional vehicle is one that is designed, used, and maintained for the transportation of persons or property for an organization, establishment, foundation, or society.

<sup>7</sup> In the proposed Kansas regulations, a public vehicle is one that is designed, used, and maintained for the transportation of persons or property at the public expense and under public control.

After comparing the Kansas idle reduction regulations to Missouri’s regulations, the Kansas regulations could be interpreted as more stringent in the treatment of freight load/unload locations. In Missouri, the responsibility for not exceeding idling time limits at freight load/unload locations is placed on the truck driver. In the Kansas regulations, the responsibility for not exceeding idling times is placed on the load/unload locations. Having the accountability placed with the owner or operator of a freight load/unload location is taken directly from the EPA Model State Idling Law.

**Action:** The following changes were made to the proposed idle reduction regulations as a result of this comment:

- In K.A.R. 28-19-712c, the phrase “for freight” was added to the second sentence. As a result, all buses will only be allowed to idle 5 minutes in any 60-minute period, except as allowed by the exceptions in K.A.R. 28-19-712d. Previously, commercial buses would have been allowed to idle 30 minutes in any 60-minute period at load/unload locations.
- In K.A.R. 28-19-712d(a)(2), the wording was changed to better qualify when defrosters, heaters, air conditioners, safety lights, and other equipment may be operated. Instead of idling to prevent a health emergency, the wording was changed so that idling may occur for safety or health reasons.
- In K.A.R. 28-19-712d, sub-letter (i) was added to allow buses to idle for 15 minutes in any 60-minute period to maintain passenger comfort while non-driver passengers are onboard. With this addition, the Kansas regulations now align with Missouri’s regulations and the EPA Model State Idling Law.

#### **B. K.A.R. 28-19-713 through K.A.R. 28-19-713d (Reduction of NO<sub>x</sub> Emissions)**

The table below compares two existing Missouri power stations’ NO<sub>x</sub> emission limits to the NO<sub>x</sub> emission limits in the Kansas regulations.

<b>Power Station</b>	<b>NO<sub>x</sub> Emission Limit (lbs/MMBtu)</b>	<b>Power Station</b>	<b>NO<sub>x</sub> Emission Limit in K.A.R. 28-19-713a (lbs/MMBtu)</b>
Hawthorn (Kansas City, MO)	0.08 - Unit 5	Nearman Creek (Kansas City, KS)	0.26 – Unit 1
Iatan (Weston, MO)	0.09 - Unit 1 0.07 - Unit 2	Quindaro (Kansas City, KS)	0.20 – Unit 2

It should be noted that Hawthorn and Iatan are newer power stations than Nearman Creek and Quindaro. As such, they were required to meet federal Best Available Control

Technology standards during construction, and are subject to the Clean Air Interstate Rule, which is more stringent than federal regulations for Kansas facilities.

K.A.R. 28-19-713a proposed a NO<sub>x</sub> emission limit for Quindaro unit 2 of 0.18 lbs/MMBtu. However, on March 26, 2010, BPU informed KDHE that Quindaro unit 2 would be unable to meet the NO<sub>x</sub> emission limit of 0.18 lbs/MMBtu for several reasons, including:

- Operating considerations related to co-firing the boiler with natural gas, which significantly increases NO<sub>x</sub> emissions, and
- Design and equipment limitations of the boiler, resulting in the manufacturer being unable to guarantee performance.

After in-depth discussion and analysis with BPU, KDHE agreed to raise the NO<sub>x</sub> emission limit at Quindaro unit 2 to 0.20 lbs/MMBtu.

The Kansas NO<sub>x</sub> emission limits also include a limit for flat glass furnaces of 7.0 pounds of NO<sub>x</sub> per ton of glass produced. KDHE is not aware of a flat glass manufacturing plant in the state of Missouri, so a comparison cannot be made between Kansas and Missouri NO<sub>x</sub> emission limits for flat glass furnaces.

In summary, the Kansas NO<sub>x</sub> emission limits are not more stringent than those in Missouri.

**Action:** No change was made to the proposed NO<sub>x</sub> reduction regulations as a result of this comment.

- A letter was received from the Kansas Association of School Boards on October 6, 2009. A copy of the letter can be found in Attachment 4 of the Report of the Hearing Officer.

**Comment:** “It does not appear these proposed regulations will have a detrimental effect on Kansas school districts. However, any additional costs associated with these regulations in the future would be harmful to Kansas school districts, which already face a funding crisis.”

**Response:** KDHE agrees with this comment. School districts should benefit from reduced fuel consumption and lower maintenance costs as a result of reduced idling.

**Action:** No change was made to the proposed regulations as a result of this comment.

- A letter was received on October 23, 2009, from Bruce S. Anderson, Director of the Department of Air Quality of the Unified Government of Wyandotte County. The letter expressed support for the proposed air quality regulations. A copy of the letter can be found in Attachment 4 of the Report of the Hearing Officer.

**Comments:** “This letter is being written in support of two new proposed air quality administrative regulations, K.A.R. 28-19-712 through K.A.R. 28-19-712d, regarding idle reduction of heavy-duty diesel vehicles; and K.A.R. 28-19-713 through K.A.R. 28-19-713d, regarding the reduction of nitrogen oxide (NO<sub>x</sub>) emissions. These proposed new regulations are in response to a violation of the eight-hour ozone standard in Kansas City that occurred on August 9, 2007. The 2007 Kansas City 8-Hour Ozone Maintenance Plan contains contingency measures that are triggered upon a violation of the ozone standard. The measures include the heavy-duty diesel truck idle reduction regulation and a nitrogen oxides reduction regulation for Johnson and Wyandotte counties.

The Department of Air Quality of the Unified Government of Kansas City, KS-Wyandotte County believes that these two proposed NO<sub>x</sub> reduction regulations are critical to meeting our Ozone Maintenance Requirements and to achieving the Ozone standard in Kansas City. When the national ambient air quality standards are not met, the public's health is at risk.”

**Response:** KDHE agrees with these comments.

**Action:** No change was made to the proposed regulations as a result of these comments.

- Verbal comments were received from Amanda Graor, Senior Air Quality Planner at the Mid-America Regional Council. The comments were presented during the public hearing on December 3, 2009. Ms. Graor provided a written copy of her verbal comments, which can be found in Attachment 4 of the Report of the Hearing Officer.

**Comments:** The comments were supportive of the proposed regulations.

**Response:** KDHE agrees with these comments.

**Action:** No change was made to the proposed regulations as a result of these comments.

- Verbal comments were received from Cindy Kemper, Director of the Johnson County Environmental Department. The comments were presented during the public hearing on December 3, 2009. Ms. Kemper provided a written copy of her verbal comments, which can be found in Attachment 4 of the Report of the Hearing Officer. The comments were supportive of the proposed idle reduction regulations. However, Ms. Kemper urged KDHE to strengthen the idle reduction regulations in three ways:

**Comment:** Provide “additional resources to conduct effective education, outreach and enforcement at the county level.”

**Response:** Due to budget restraints and uncertainties, KDHE is unable to provide additional resources to local government at this time. Existing work will be reprioritized and KDHE and the Kansas State Small Business Environmental Assistance Program will assist with outreach to implement these regulations.

**Action:** No change was made to the proposed regulations as a result of this comment.

**Comment:** Provide “a phase-out of the exemption that allows idling during government-mandated rest periods.”

**Response:** In order to minimize confusion and complexity, KDHE believes it best to not have time-conditional exemptions within the regulations. If these regulations become obsolete at a future time, KDHE can amend or revoke accordingly.

**Action:** No change was made to the proposed regulations as a result of this comment.

**Comment:** Add “provisions to ensure that load and unload locations are designed and operated so as not to cause heavy-duty vehicles to idle unnecessarily.”

**Response:** KDHE feels it is sufficient to hold owners and operators of load and unload locations accountable for not exceeding the idling time limit in K.A.R. 28-19-712c. KDHE believes that design considerations for traffic flow at load and unload facilities can best be addressed during the planning, permitting and zoning processes at the local government level.

**Action:** No change was made to the proposed regulations as a result of this comment.

- Verbal comments were received from Mike Boothe, the Environmental Compliance Manager of Air Quality at the Johnson County Environmental Department. The comments were presented during the public hearing on December 3, 2009. Mr. Boothe provided a written copy of his verbal comments, which can be found in Attachment 4 of the Report of the Hearing Officer.

**Comments:** The comments were supportive of the proposed NO<sub>x</sub> reduction regulations.

**Response:** KDHE agrees with these comments.

**Action:** No change was made to the proposed regulations as a result of these comments.

- Verbal comments were received from Tom Whitaker, Executive Director of the Kansas Motor Carriers Association (KMCA). The comments were presented during the public hearing on December 3, 2009. Mr. Whitaker provided a written copy of his verbal comments, which can be found in Attachment 4 of the Report of the Hearing Officer.

**Comment:** “KMCA understands the necessity for adoption of the proposed regulations due to greater Kansas City's violation of the eight-hour ozone standard which triggered the 8-Hour Ozone Maintenance Plan. We also appreciate the Department's use of the EPA's model legislation to draft these rules. Use of the model legislation creates a framework to base anti-idling regulations on and provides for uniformity between jurisdictions. I personally want to



thank the KDHE staff for the open lines of communication between government and the trucking industry during the development of these regulations.

KMCA has two concerns with the regulations as written:

The applicability of the rules found in K.A.R. 28-19-712a applies in Johnson and Wyandotte counties to "(a) any heavy-duty diesel vehicle that is also a commercial vehicle, institutional vehicle, or public vehicle; or (b) any load or unload location." KMCA believes the regulation should be amended to include all mobile diesel equipment, including construction equipment and locomotives. In addition, the exemption for agriculture also should be removed and the term "commercial vehicle" should be eliminated to ascertain that heavy-duty diesel farm trucks are subject to the regulations."

**Response:** The idle reduction regulations were designed to impact only on-road mobile diesel vehicles. When looking at all mobile NO<sub>x</sub> emission sources for 2008 in Johnson and Wyandotte Counties, KDHE's data indicate that on-road mobile sources contribute 76% of the total mobile-source NO<sub>x</sub> emissions, whereas nonroad mobile sources contribute 24%. If additional ozone violations occur in the Kansas City Maintenance Area, further regulations would be considered for mobile pollution sources, as required by the Kansas City 8-Hour Ozone Maintenance Plan.

**Action:** No change was made to the proposed regulations as a result of this comment.

**Comment:** "An exemption should be added to reward those operators of heavy-duty diesel vehicles who have embraced "clean diesel" technology or purchased 2007 or newer trucks meeting EPA's required reductions in nitrogen oxides and particulate matter. The Kansas trucking industry is willing to do our part to clean the air in greater Kansas City and strongly believes the vehicles to which these rules would apply be broadened."

**Response:** KDHE believes it is important to maintain uniform applicability of the regulations to all on-road heavy-duty diesel vehicles. Limiting idling as required by the regulations will reduce NO<sub>x</sub> emissions, even from vehicles that have advanced pollution control technology. As emissions reduction technologies continue to improve, KDHE will revisit this item at a future time.

**Action:** No change was made to the proposed regulations as a result of this comment.

- A letter was received from the Kansas City Board of Public Utilities on December 3, 2009. A copy of this letter can be found in Attachment 4 to the Report of the Hearing Officer.

**Comments:** "BPU is committed to doing the work needed to achieve the Phase I Contingency Measures. The above timeline will allow the work to be completed as expeditiously as possible. BPU requests that the proposed regulations be modified to provide as to Quindaro a requirement for a 24 month installation timeframe and a 30 month compliance demonstration timeframe and

with respect to Nearman a 30 month installation timeframe and a 36 month compliance demonstration timeframe based on a January 1, 2010 regulation effective date.”

**Response:** KDHE recognizes that installing and testing the NO<sub>x</sub>-reducing equipment and technology at the Quindaro and Nearman Creek power stations, as well as the AGC Flat Glass facility, is a time-intensive process and requires approvals for financing, engineering, permitting, installation, and performing a compliance demonstration. The timeframes outlined in the regulations stem from the EPA approval of the Kansas City 8-Hour Ozone Maintenance Plan. KDHE requested that EPA Region 7 consider a timeframe greater than 24 months in which to implement necessary controls. EPA responded that the regulation needed to specify no more than the 24-month timeframe which was in the Kansas City 8-Hour Maintenance Plan. If the regulations were modified to increase the installation and compliance timelines, the EPA could decide to federally enforce the requirements of the Kansas City 8-Hour Maintenance Plan, instead of KDHE.

**Action:** KDHE is in contact with BPU and AGC Flat Glass to resolve this issue. The preferred method to address timeframes modified from the regulations would be compliance agreements between KDHE and the parties. No change was made to the proposed regulations as a result of this comment.

- A letter was received from the Air Planning and Development Branch of the Air and Waste Management Division of EPA Region 7 on December 2, 2009. A copy of this letter can be found in Attachment 4 to the Report of the Hearing Officer.

**Comment:** “In terms of the idle limits for load/unload facilities, EPA understands that your intent in drafting this rule is that all applicable vehicles must limit idling to five minutes during any 60-minute period, except at commercial load/unload facilities (involving loading or unloading of materials rather than persons), where commercial vehicles may idle up to 30 minutes. We further understand the proposed rule to require that vehicles at load/unload facilities such as bus stops or schools are still subject to the five minute restriction. If this is the correct intent of the regulation, EPA suggests that there may be additional language which could clarify the intent in either the definitions, section 28-19-712(g), or in the general requirement for load or unload locations section 28-19-712c. For example, 28-19-712c could be revised to add that the 30-minute provision only applies to commercial vehicles which load or unload materials and does not apply to commercial passenger vehicles.”

**Response:** The intent of the proposed regulations was that commercial buses would be allowed to idle for 30 minutes during any 60-minute period at a load/unload location. However, a change has been made to K.A.R. 28-19-712c that now limits all bus idling to 5 minutes during any 60-minute period, regardless of location, except as provided by the exceptions in K.A.R. 28-19-712d.

**Action:** The following changes were made to the proposed idle reduction regulations as a result of this comment:

- In K.A.R. 28-19-712c, the phrase “for freight” was added to the second sentence. As a result, all buses will only be allowed to idle 5 minutes in any 60-minute period, except as allowed by the exceptions in K.A.R. 28-19-712d. Previously, commercial buses would have been allowed to idle 30 minutes in any 60-minute period at load/unload locations.
- In K.A.R. 28-19-712d(a)(2), the wording was changed to better qualify when defrosters, heaters, air conditioners, safety lights, and other equipment may be operated. Instead of idling to prevent a health emergency, the wording was changed so that idling may occur for safety or health reasons.
- In K.A.R. 28-19-712d, sub-letter (i) was added to allow buses to idle for 15 minutes in any 60-minute period to maintain passenger comfort while non-driver passengers are onboard. With this addition, the Kansas regulations now align with Missouri’s regulations and the EPA Model State Idling Law.

**Comment:** “EPA encourages the state to retain the language in 28-19-712d(b) which indicates that emergency response vehicles are also subject to the idle limits when not in emergency or training mode.”

**Response:** KDHE will retain the language in K.A.R. 28-19-712d(b) pertaining to emergency response vehicles.

**Action:** No change was made to the proposed regulations as a result of this comment.

**Comment:** “EPA requests that KDHE provide a detailed explanation of how this rule will be enforced (and by whom) and what penalties will be assessed for violations of the regulation.”

**Response:** KDHE has not emphasized penalties with this rule, as the intent is to use financial incentives, compliance assistance and public education as the primary implementation tools. The affected local governments’ contractual obligations to KDHE concerning air quality will be reprioritized to emphasize the need for public outreach, education and compliance assistance to facilitate the implementation of these idle reduction rules. Warning or violation notices would likely occur only after multiple failed attempts to achieve compliance by local officials.

If enforcement was to take place, KDHE’s consent and involvement would be required. The statutory authority for penalties is contained in the Kansas Air Quality Statutes at K.S.A. 65-3018, and not within these regulations. Only the most serious, ongoing, and egregious violations will be considered for enforcement. It is KDHE’s desire and intent to implement these regulations as smoothly as possible, avoiding enforcement actions and/or penalties.

**Action:** No change was made to the proposed regulations as a result of this comment.

**Comment:** “EPA requests that KDHE provide an explanation of why the 14,001 lbs base weight limit was used to define a heavy duty diesel vehicle as opposed to the 8,000 - 10,000 lbs weight limit recommended by EPA's model idle rule.”

**Response:** Please refer to Attachment A of the Regulatory Impact Statement. When KDHE analyzed the classifications of trucks registered in Johnson and Wyandotte Counties, a small number were found to be registered in the gross vehicle weight range of 6,001 - 10,000 lbs. The majority of light-duty trucks are registered in the gross vehicle weight range of 10,001 - 12,000 lbs, and are not heavy-duty diesels. Additionally, only a small number of vehicles are registered in the gross vehicle weight range of 12,001 - 14,000 lbs. Therefore, the natural break in the data to begin classifying a vehicle for these regulations as heavy-duty begins at 14,001 lbs.

Furthermore, by taking advantage of the Kansas Department of Revenue (KDOR) classification on license plates (e.g., 12M, 16M, 20M, etc.), only a quick visual inspection of the license plate will be needed to determine if a vehicle registered in Kansas is considered heavy-duty under the regulations. A KDOR classification of 16M or greater is considered heavy-duty under the regulations.

**Action:** No change was made to the proposed regulations as a result of this comment.

**Comment:** “The approved maintenance plan requires that Phase 1 contingency measures be implemented within 24 months after the trigger date. In this instance, the trigger date was August 2007. Because the implementation deadline in the State Implementation Plan will not be met, we request that KDHE provide a justification for why the deadline could not be met. We are available to discuss the content of the justification with the department as necessary.”

**Response:** The deadline was not met due to extended work with stakeholders during the process of drafting the regulations. For example, NO<sub>x</sub> reductions from the Kansas City Board of Public Utilities' (BPU) power plants were originally intended to take place by inclusion of the Nearman Creek and Quindaro power stations in the Kansas Regional Haze plan. However, after extensive discussion with both EPA and BPU regarding the achievable emission rate at Nearman Creek, KDHE removed BPU from the Kansas Regional Haze plan so as to include them in the NO<sub>x</sub> reduction regulations resulting from the Phase 1 contingency measures of the Kansas City 8-Hour Ozone Maintenance Plan.

The increasing number of federal regulations that must be adopted by reference at the state level has also increased the workload for the Bureau of Air.

KDHE remains committed to implementing the Phase 1 contingency measures as expeditiously as possible.

**Action:** No change was made to the proposed regulations as a result of this comment.

## Comparison of Idle Reduction Regulations

Idle Reduction	EPA Model State Idling Law (EPA420-S-06-001, April 2006)	Kansas Regulations (K.A.R. 28-19-712 through K.A.R. 28-19-712d)	Proposed Missouri Regulations (Missouri Register, 8/15/2008, pp. 1573-1575)	Final Missouri Regulations 10 CSR 10-2.385 (Kansas City area) 10 CSR 10-5.385 (Saint Louis area)
<b>Applicability</b>	Applies to: <ul style="list-style-type: none"><li>• Diesels &gt;10,001 lbs that are commercial (includes institutional &amp; public vehicles, with certain conditional exemptions)</li><li>• Load/unload locations</li></ul>	Applies to owner/operator of: <ul style="list-style-type: none"><li>• Diesels &gt;14,001 lbs that are commercial, institutional or public vehicles (with certain exemptions)</li><li>• Load/unload locations</li></ul>	Applies to owner/operator of: <ul style="list-style-type: none"><li>• Diesels &gt; 8,500 lbs that are commercial, public or institutional vehicles (with certain exemptions)</li><li>• Load/unload locations</li></ul>	Applies to owner/operator of: <ul style="list-style-type: none"><li>• Diesels &gt;10,000 lbs that are commercial, public or institutional vehicles (with certain exemptions)</li></ul> <i>(Provision for load/unload locations dropped from final regulation)</i>
<b>General Requirements for Load/Unload Locations</b>	Owner of load/unload location cannot cause idling more than 30 min while waiting to load/unload.	Owner/operator of load/unload location cannot cause idling more than 30 min in any 60-min period while waiting to load/unload.	Owner/operator of existing load/unload location cannot cause/allow idling more than 30 min in any 60-min period while waiting to load/unload.	<u>Passenger Load/Unload Location:</u> Owner/operator of passenger load/unload location cannot cause/allow idling more than 5 min in any 60-min period.  <u>Freight Load/Unload Location:</u> Vehicles cannot idle more than 30 min in any 60-min period while waiting to load/unload. <i>(Responsibility placed on truck driver in final regulation)</i>
<b>General Requirements for Vehicles</b>	Owner/operator cannot cause/permit idling more than 5 min in any 60-min period.	Owner/operator cannot cause idling more than 5 min in any 60-min period.	Owner/operator cannot cause/permit idling more than 5 min in any 60-min period.	Owner/operator cannot idle vehicle more than 5 min in any 60-min period.
<b>Auxiliary Power Unit (APU)</b>	Does not apply when APU is used as alternative to idling main engine.	Regulations do not apply when APU is used as alternative to idling main engine.	Regulations do not apply when APU is used as alternative to idling main engine.	Regulations do not apply when APU is used as alternative to idling main engine.
<b>Penalties</b>	<u>1st offense:</u> Warning ticket  <u>2nd and subsequent offenses:</u> \$150 ticket for driver; and/or \$500 ticket for vehicle owner or load/unload location owner	Defers to existing statutory authority.	Defers to existing statutory authority.	Defers to existing statutory authority.
<b>Passenger Buses</b>	May not idle more than 15 min in any 60-min period to maintain passenger comfort. This exemption expires (after an unspecified number of years) after implementation of a state financial assistance program for idle reduction technologies or strategies.	A bus cannot idle more than 15 min in any 60-min period for passenger comfort.	A bus cannot idle more than 15 min in any 60-min period for passenger comfort	A bus cannot idle more than 15 min in any 60-min period for passenger comfort.
<b>Exemptions</b>	<p>The EPA Model State Idling Law contains 7 exemptions for: traffic delays, safety/health issues, police/fire/emergency vehicles, maintenance/repair work, state/federal inspections, mechanical/electrical operations other than propulsion, and armored vehicles.</p> <p>KDHE's regulations include all 7 exemptions found in EPA's model law, plus an exemption for agricultural operations.</p> <p>Missouri's proposed and final regulations include all 7 exemptions found in EPA's model law, plus an exemption for agricultural operations.</p> <p>The EPA Model State Idling Law contains 4 conditional exemptions. The first three are for: passenger comfort on buses, heating &amp; A/C for rest periods, and heating &amp; A/C while waiting to load/unload. These conditional exemptions expire (after an unspecified number of years) after implementation of a state financial assistance program for idle reduction. The fourth conditional exemption is for mechanical difficulties and requires the driver to submit paperwork (within an unspecified number of days) to verify a problem was fixed.</p> <p>KDHE's regulations include 3 of the conditional exemptions found in EPA's model law (passenger comfort on buses, heating &amp; A/C for government-mandated rest periods, and mechanical difficulties). However, the exemptions in KDHE's regulations are not conditional; they are stand-alone exemptions. KDHE attempted to incorporate the exemption for heating &amp; A/C for loading/unloading within the safety/health exemption at K.A.R. 28-19-712d(a)(2).</p> <p>Missouri's proposed and final regulations include 3 of the conditional exemptions found in EPA's model law (passenger comfort on buses, heating &amp; A/C for government-mandated rest periods, and mechanical difficulties. These exemptions are not conditional.</p>			